



account. DFG is concerned about the lack of funds in this account; due to its rapid rate of depletion, the herring fishery needs funds available to replenish its stock.

-A reduction of aircraft restrictions over wildlife refuges is also being considered. The current restrictions ensure no disturbance of wildlife breeding; this proposal would allow the film industry to fly over and photograph these areas during the non-breeding seasons.

-Proposals to increase fees for the habitat enhancement program are also being considered. Following an Auditor General's investigation into the alleged lax enforcement of this program and its inability to pay for itself, DFG is considering a proposal to increase the maximum statutory application and day fees allowed. The fee increases would be earmarked for enforcement funding and overall financial support.

-DFG will also propose an extension of the sunset provision in Fish and Game Code section 8151.5. The current statute allows DFG to monitor the number and take limits of sardines. This legislation sunsets on January 1, 1990; the proposed legislation would extend the program to January 1, 1991.

## LITIGATION:

In *Mountain Lion Preservation Foundation, et al. v. California Fish and Game Commission*, FGC is currently appealing the San Francisco Superior Court's decision banning the FGC-approved mountain lion hunt for the second consecutive year. The court again found fault with the environmental impact statement relied upon by the Commission. The FGC defends the adequacy and accuracy of its report. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 106 for background information.)

At this time, FGC has no plans to appeal a similar decision by the Sacramento Superior Court that its environmental impact report on a proposed tule elk hunt fails to meet the standards of the California Environmental Quality Act. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 106 for background information.)

## RECENT MEETINGS:

At its October meeting, the Commission heard testimony in opposition to the Department's request to list the plant Orange County Turkish Rugging as a candidate for threatened species protection. The controversy developed because listing this plant as "threatened" would hinder many development interests in Orange County.

Listing a species as a candidate for

"threatened" or "endangered" status carries automatic protections until a final determination on the possible listing is made. These protections would severely curtail the Irvine Company's ongoing development of an area containing many of these plants.

In rejecting the Department's request, the Commission stated that DFG did not provide enough information to warrant protective status for the plant. The Commission recommended that the affected business interests and DFG coordinate an effort to determine the total plant population and establish with more accuracy the threat of endangerment to this species.

At the Commission's December meeting, cold storage facilities were put on notice of the Department's intent to actively enforce section 711, Title 14 of the CCR, a recently-adopted regulation concerning the storage of game animals. The new regulation requires these facilities to keep paperwork on each animal in storage, including records of animal tags and owners' license numbers. The purpose of the new regulation is to reduce the poaching of restricted game animals and to require a full accounting of the owners' records regarding them. The cold storage facilities that handle game animals had requested the new regulation in order to clarify their responsibility.

## FUTURE MEETINGS:

April 6-7 in Sacramento.

April 27 in Sacramento.

## BOARD OF FORESTRY

*Executive Officer: Dean Cromwell*  
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The Board of Forestry is a nine-member Board appointed to administer the Z'berg-Nejedly Forest Practice Act of 1973 (Public Resources Code section 4511 *et seq.*). The Board serves to protect California's timber resources and to promote responsible timber harvesting. Also, the Board writes forest practice rules and provides the Department of Forestry and Fire Protection (CDF) with policymaking guidance. Additionally, the Board oversees the administration of California's forest system and wildland fire protection system. The Board members are:

Public: Harold Walt (chair), Carlton Yee, Clyde Small, Franklin L. "Woody" Barnes, and Elizabeth Penaat.

Forest Products Industry: Roy D. Berridge, Clarence Rose and Joseph

Russ, IV.

Range Livestock Industry: Jack Shannon.

The Forest Practice Act requires careful planning of every timber harvesting operation by a registered professional forester (RPF). Before logging operations begin, each logging company must retain an RPF to prepare a timber harvesting plan (THP). Each THP must describe the land upon which work is proposed, silvicultural methods to be applied, erosion controls to be used, and other environmental protections required by the Forest Practice Rules. All THPs must be inspected by a forester on the staff of the Department of Forestry and, where appropriate, by experts from the Department of Fish and Game and/or the regional water quality control boards.

For the purpose of promulgating Forest Practice Rules, the state is divided into three geographic districts—southern, northern and coastal. In each of these districts, a District Technical Advisory Committee (DTAC) is appointed. The various DTACs consult with the Board in the establishment and revision of district forest practice rules. Each DTAC is in turn required to consult with and evaluate the recommendations of the Department of Forestry, federal, state and local agencies, educational institutions, public interest organizations and private individuals. DTAC members are appointed by the Board and receive no compensation for their service.

## MAJOR PROJECTS:

*Site Preparation Regulations Adopted.* On September 7, the Board began public hearings to discuss amendments to the Board's site preparation rules in Title 14 of the California Code of Regulations (CCR). (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 106-07 for detailed background information on these proposed changes.) These hearings were continued at the Board's October and November meetings, and the proposed amendments were formally adopted on December 9.

The following is a synopsis of the newly adopted amendments: section 895.1 was amended to add relevant site preparation definitions; Technical Rule Addendum Number One was amended regarding procedures on estimating surface soil erosion hazard rating (sections 912.5, 932.5, and 952.5); regulations for each forest district dealing with harvesting practices and erosion control were revised to include site preparation activities (sections 914, 914.2, 914.7, 934, 934.2, 934.7, 954, 954.2, and 954.7); and



regulations dealing with protection of the beneficial uses of water and hazard reduction were amended (sections 916.3, 916.4, 917.3, 936.3, 936.4, 937.3, 956.3, 956.4, and 957.3). New Article 5 was adopted for each forest district, which will set specific standards for the use of motorized equipment in site preparation, the treatment of vegetative matter, the protection of natural resources, and the contents of an addendum to the THP on site preparation. Section 1022.2 was also adopted, which specifies when a timber operator's license will be required for site preparation activities. Finally, an amendment to section 1035(e) specifying the responsibilities of the THP was adopted to address site preparation activities.

At this writing, these proposed regulatory changes await review by the Office of Administrative Law (OAL).

**Erosion Control Maintenance Regulations Adopted.** On September 7, the Board commenced public hearings on proposed regulations governing the maintenance of certain erosion control facilities after completion of timber operations. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 107 for background information.) These hearings were continued at the Board's October and November meetings, and the proposed amendments were formally adopted at the December meeting.

Specifically, the Board added relevant definitions to section 895.1, Title 14 of the CCR; amended each forest district's regulations on waterbreaks (sections 923.3, 943.3, and 963.3) to require the maintenance of waterbreaks and other erosion control facilities for at least one year after filing a work completion report; amended regulations for roads and landings (sections 923.3, 943.3, and 963.4) to require minimization of erosion on watercourses and lakes through the installation and maintenance of drainage facilities and soil stabilization treatments; amended its regulations on the use of roads during wet periods (sections 923.6, 943.6, and 963.6) to apply to maintenance activities; added sections setting forth specific standards for the planned abandonment of roads, watercourse crossings, and landings (sections 923.8, 943.8, and 963.8); added section 1022.3 to exempt those performing erosion control maintenance from the requirement for a timber operator's license; and repealed and readopted section 1050 to specify when erosion control maintenance is required, who is responsible for the maintenance, the period of time during which maintenance is required after completion of timber

operations, and the criteria for setting the maintenance period.

At this writing, these proposed regulatory changes await review by the OAL.

**Standards for Road Access.** SB 1075 (Rogers) created section 4290 of the Public Resources Code. Pursuant to this section, the Board must, by July 1, 1989, formally adopt regulations implementing minimum fire safety standards for road access, street and house identification, private reserve water supplies, and fuel-breaks and greenbelts around new structures in state responsibility areas.

In October, the Board issued preliminary draft regulations, sections 1270-1279, Title 14 of the CCR. The proposed regulations set forth road standards for fire equipment access; standards for signs identifying streets, roads, and buildings; minimum private water supply reserves for emergency fire use; standards regarding modification of flammable vegetation to reduce radiant heat along fire escape routes; and maintenance standards and practices for facilities and structures. The Board accepted written comments on its proposed regulations until December 15.

**Proposed Fire Control Exemption.** Pursuant to a petition by the Pacific Gas and Electric Company, the CDF Director accepted written comments until December 15 on the Department's proposed amendments to sections 1251 and 1255(b), Title 14 of the CCR. The proposed amendments would define the terms used therein and add an additional type of electrical power distribution pole and tower equipment exempt from the requirements of Public Resources Code section 4292.

**OAL Approves Education Program for New Timber Operators.** On November 4, 1987, the Board adopted amendments to regulatory section 1024 and approved new section 1024.1, Title 14 of the CCR, requiring persons applying for their first timber operator's license to complete an education program and establishing the standards for the education programs. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 107 and Vol. 8, No. 1 (Winter 1988) p. 96 for background information.) OAL disapproved the Board's proposal on July 11, 1988, on grounds that the proposed sections were unclear and that those persons directly affected by the new regulations would be unable to understand the language. After making the necessary changes to the proposed regulations, the Board re-submitted the proposal to OAL, which approved the regulations on November 9.

**Open Positions.** The Board recently requested nominations to fill positions

on its DTACs because of expiration of appointed terms. Nominations were requested to fill the following positions: Coastal DTAC—one forest products representative and three public representatives; Northern DTAC—one forest products representative, one public representative, and one range/livestock representative; Southern DTAC—three public representatives. Nominations were due by December 15.

The Board also requested nominations for vacancies on the Professional Foresters Examining Committee (PFEC) and the RPF Liaison Committee. Like DTAC members, members of these committees are ultimately appointed by the Board. The PFEC reviews applications for RPF registration and recommends to the Board the granting of a license to persons found qualified by examination. The Liaison Committee provides input to the Board on issues affecting licensed foresters, implementation of the Forest Practice Act, regulations, and Board policies. Nominations for these vacancies were also accepted until December 15.

## LEGISLATION:

**AB 348 (Sher)** would enact the California Reforestation and Urban Forestry Act of 1990, which (if approved by the voters at the next statewide election) would authorize, for purposes of financing a specified reforestation and urban forestry program, the issuance of bonds in the amount of \$300 million. The bill would require CDF to use \$200 million for making loans and grants for rural reforestation projects and to use \$100 million for making grants for urban forestry projects.

**AB 390 (Sher)** would prohibit the clearcutting of any virgin old-growth timber stand, as defined, or the use of other silvicultural methods that have the effect of a clearcut on virgin old-growth timber stands. This bill would also authorize the imposition by a court and by CDF of a civil penalty for a violation of that prohibition.

**1989 Proposals.** The fire season of 1988 will be remembered for the millions of acres and dollars lost to wildfires in California. The 49er Fire (near Grass Valley) alone burned 168 structures and caused over \$30 million in damage. In response, the Board plans to make the following general legislative proposals in 1989 to better control wildfires in the future: (1) amendment of general planning laws to better address the threat of wildfire to homes and natural resources; (2) strengthen the application of laws requiring clearance around homes in



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wildfire-prone areas; (3) improve the ability of the CDF and other governmental agencies to pursue arsonists who set wildland fires; and (4) review effects of AB 2595 (Chapter 1568, Statutes of 1988) on CDF's vegetation management programs.

In 1988, the Board sponsored SB 2190 by Senators Dills and Campbell. This bill would have specifically required local governments to consider the threat of wildfire as part of their general plans. The bill was approved by the legislature but vetoed by the Governor because of its local fiscal impact and because he believed that it is inappropriate to impose such a mandate on all local governments. In its Annual Report, the Board frankly disapproved of the Governor's veto. It is the Board's position that the minor fiscal costs are insignificant when compared to the damage caused by this summer's fires alone. The Board also believes that local governments share an obligation to plan wisely for wildfire protection and that SB 2190 was specifically written to apply only to wildfires. The Board will urge the legislature to again consider a bill like SB 2190 and to convince the Governor of its importance, despite minor fiscal costs.

Also vetoed by the Governor was AB 4070 (Farr), which would have authorized county review teams to accompany CDF on inspections; and would have authorized the Board to adopt individual county rules and regulations relating to the processing of THPs. Assemblymember Farr will reintroduce similar legislation in 1989 and is confident that passage will be forthcoming.

In 1988, the legislature passed AB 2595 (Sher), the California Clean Air Act of 1988 (Chapter 1568, Statutes of 1988), which relates to many aspects of the state's air quality program. Within that bill is an amendment to section 40400 *et seq.* of the Health and Safety Code, to be known as the Lewis-Presley Air Quality Management Act. The Board generally supports the new law, but is wary of one provision of the Lewis-Presley Act which allows local air pollution control districts to charge fees for burning, including controlled burning. In its Annual Report, the Board submits that any fees charged against CDF's vegetation management burns, range burning, and burning of slash piles by timberland owners will stifle landowner participation and effectively reduce the size of CDF's budget for its vegetation management program. The Board requests that the legislature carefully review implementation of AB 2595 and to

exempt wildland burning from any fees adopted by local air pollution control districts.

## LITIGATION:

In April, a Humboldt County Superior Court judge granted a temporary restraining order to block timber cutting on 700 acres of trees near Eureka. Pacific Lumber Company's harvesting plan for the region had already been approved by CDF when petitioners filed *Environmental Protection Information Center (EPIC) v. Maxxam Corporation, et al.*, No. 79879, in March. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 108 for background information.)

The restraining order was lifted after a subsequent hearing in July and EPIC appealed the decision. The First District Court of Appeal issued a writ ordering the Superior Court to reissue the temporary restraining order and remanded the case for rehearing. A trial date was set for January 23, 1989; the temporary restraining order will remain in effect through trial.

## FUTURE MEETINGS:

To be announced.

## WATER RESOURCES CONTROL BOARD

*Executive Director: James W. Baetge*  
*Chairperson: W. Don Maughan*  
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The Water Resources Control Board (WRCB), established in 1967 by the Porter-Cologne Water Quality Control Act, implements and coordinates regulatory action concerning California water quality and water rights. The Board consists of five full-time members appointed for four-year terms. The statutory appointment categories for the five positions ensure that the Board collectively has experience in fields which include water quality and rights, civil and sanitary engineering, agricultural irrigation and law.

Board activity in California operates at regional and state levels. The state is divided into nine regions, each with a regional board composed of nine members appointed for four-year terms. Each regional board adopts Water Quality Control Plans (Basin Plans) for its area and performs any other function concerning the water resources of its respective region. All regional board action is subject to state Board review or approval.

Water quality regulatory activity includes issuance of waste discharge orders,

surveillance and monitoring of discharges and enforcement of effluent limitations. The Board and its staff of approximately 450 provide technical assistance ranging from agricultural pollution control and waste water reclamation to discharge impacts on the marine environment. Construction grants from state and federal sources are allocated for projects such as waste water treatment facilities.

The Board administers California's water rights laws through licensing appropriate rights and adjudicating disputed rights. The Board may exercise its investigative and enforcement powers to prevent illegal diversions, wasteful use of water and violations of license terms. Furthermore, the Board is authorized to represent state or local agencies in any matters involving the federal government which are within the scope of its power and duties.

## MAJOR PROJECTS:

*Phase II of the Bay-Delta Workplan.* On October 31—following the conclusion of Phase I of the San Francisco Bay/San Joaquin Delta Estuary Workplan (Bay-Delta) and in preparation for Phase II, the WRCB released its draft water quality control plan for salinity (Salinity Plan) and its draft water quality control policy for pollutants (Pollutant Policy Document) in the Bay-Delta. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 109; Vol. 7, No. 2 (Spring 1987) p. 96; and Vol. 6, No. 4 (Fall 1986) p. 82 for background information on the Bay-Delta proceedings.) At that time, the Board set forth a schedule of WRCB workshops during November-December 1988 and statewide public hearings to commence January 9 and end on February 27—the purpose of which were to discuss and determine whether to adopt the two draft documents.

However, widespread negative reaction to the two plans caused the Board to subsequently postpone the public hearings. Much of the criticism centered on a recommendation calling for a long-term freeze in water exports from the Delta to southern California. The Delta is a series of islands and passageways located at the convergence of several northern California rivers northeast of San Francisco; two-thirds of the state's water flows through the Delta.

The WRCB's plan calls for a new statewide "water ethic" of conservation, and a freeze on exports of Delta water to southern California at 1985 levels until 2010. The proposal is intended to remedy a sharp decline in salmon and striped bass populations in the Delta; the increased flow in the north should